

This instrument was prepared by:
Scott Woolam, Chief
Bureau of Public Land Administration
Division of State Lands
Department of Environmental Protection
3900 Commonwealth Blvd MS35
Tallahassee, FL 32399-3000

Doc# 1612510
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RECORDER'S MEMO:
LEGIBILITY OF WRITING, TYPING, OR PRINTING WAS
UNSATISFACTORY ON THIS DOCUMENT WHEN RECEIVED

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT
TRUST FUND OF THE STATE OF FLORIDA

PARTIAL MODIFICATION OF DEED RESTRICTION AND REVERTER
DEED NO. 19259-C

KNOW ALL MEN BY THESE PRESENTS: That

WHEREAS, the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA ("Board of Trustees") is by Section 253.03, Florida Statutes, authorized and empowered to modify restrictive covenants and reverters previously placed on state-owned lands by the Board of Trustees at the time the Board of Trustees conveyed said lands to another party under the terms and conditions set forth herein; and,

WHEREAS, on January 14, 1947, the Board of Trustees approved the sale to the City of Key West, Florida ("City"), of approximately 91.3 acres of sovereignty submerged lands located in Garrison Bight, Monroe County, Florida (the "Property") and required that the deed to the City contain a "reversion clause in event the land should ever be used for other than public purposes;" and

WHEREAS, on April 11, 1947, by Deed No. 19259, recorded in Deed Book G-30, Page 330, Public Records of Monroe County, Florida, the Board of Trustees conveyed the Property, which is

more particularly described in Deed No. 19259 and in Exhibit "A" attached hereto and by this reference made a part hereof, to the City; and

WHEREAS, said Deed No. 19259 inadvertently omitted the public purpose deed restriction and reverter authorized by the Board of Trustees at its January 14, 1947 meeting; and

WHEREAS, on July 1, 1965, the Board of Trustees issued Deed No. 19259-A Corrective to the City, recorded in Official Records Book 354, Page 106, Public Records of Monroe County, Florida, which corrects and supersedes the former Deed No. 19259, dated April 11, 1947, to include the public purpose deed restriction ("Restriction") and reverter ("Reverter") authorized by the Board of Trustees at its January 14, 1947 meeting; and

WHEREAS, on September 29, 1965, the Board of Trustees issued Deed No. 19259-B to the City, recorded in Official Records Book 357, Page 489, Public Records of Monroe County, Florida, for the purpose of releasing 0.446 acres of the Property from the Restriction and Reverter; and

WHEREAS there appears to be existing private docking facilities on the portion of the Property that abuts uplands along Eisenhower Drive between the Palm Avenue Causeway and Roosevelt Boulevard and these private docking facilities may violate the Restriction and Reverter; and

WHEREAS, the Board of Trustees and the City wish to modify the Restriction and Reverter only for that portion of the Property on which the existing private docking facilities are located; and

WHEREAS, the City did approve this Partial Modification of Deed Restriction and Reverter on the 17th day of October, 2006; and

WHEREAS, the Board of Trustees did approve this Partial Modification of Deed Restriction and Reverter on the 3rd day of October, 2006.

NOW THEREFORE, for and in consideration of the foregoing recitals and of the mutual covenants, terms and conditions herein contained, and other good and valuable consideration, the Board of Trustees and the City hereby agree as follows:

1. For that portion of the Property lying directly below the existing private docking facilities abutting uplands along Eisenhower Drive between Palm Avenue Causeway and Roosevelt Boulevard the Restriction and Reverter contained in Deed Number 19259-A Corrective are hereby modified as follows:

- (a) In addition to public purposes, that portion of the Property described in this paragraph 1. may also be used for those private docking facilities that are in existence on the date the Board of Trustees approved this Partial Modification of Deed Restriction and Reverter. Said existing private docking facilities are shown on Exhibit "B" attached hereto and by this reference made a part hereof.
- (b) Said existing private docking facilities may only be used in conjunction with the uses occurring on the uplands on the date the Board of Trustees approved this Partial Modification of Deed Restriction and Reverter.
- (c) Any new construction or modification to said existing private docking facilities shall be subject to the provisions of Rules 18-21.004 and 18-21.0041, Florida Administrative Code, in effect at the time of the new construction or modification.
- (d) All revenues received by the City from the private use of the submerged lands described in this paragraph 1. shall be used solely to fund the operation of water-related activities for the general public.
- (e) Any violation of the restrictive covenants described in this paragraph 1. shall cause the lands described in this paragraph 1. to revert to the Board of Trustees or its successors.

2. Except as expressly modified hereby, the original terms and conditions of the Restriction and Reverter contained in Deed No. 19259-A Corrective shall remain unchanged in each and every respect for the Property, less and except that portion thereof (a) described in paragraph 1. above, and (b) described in Deed No. 19259-B, and the same are hereby ratified, approved and confirmed by the Board of Trustees and the City as of the date of this Partial Modification of Deed Restriction and Reverter.

3. The terms of this Partial Modification of Deed Restriction and Reverter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties have caused this Partial Modification of Deed Restriction and Reverter to be executed the day and year last written below.

BOARD OF TRUSTEES OF THE INTERNAL
IMPROVEMENT TRUST FUND OF THE
STATE OF FLORIDA

Victoria F. Thompson
Witness

Victoria F. Thompson
Print/Type Witness Name

Scott E. Woolam
Witness

Scott E. Woolam
Print/Type Witness Name

By: Deborah Poppell (SEAL)
DEBORAH POPPELL, ASSISTANT
DIRECTOR, DIVISION OF STATE
LANDS, STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

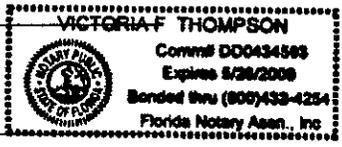
Date: 10/31/06

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 31 day of October, 2006, by Deborah Poppell, as Assistant Director, Division of State Lands, State of Florida Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, who is personally known to me.

(SEAL) Victoria F. Thompson
Notary Public, State of Florida

Approved as to Form and Legality
By: Sary L. Heiser
DEP Attorney

Print/Type Notary Name
Commission Number:
My Commission Expires:


City of Key West, Florida

Susan P. Harrison

Witness

SUSAN P. HARRISON

Print/Type Witness Name

Pamela S. DeMala

Witness

PAMELA S. DEMALA

Print/Type Witness Name

By: [Signature]

Julio Arael

Print/Type Name

Title: City Manager
(Official Seal)

Date: 10/17/06

STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this 17 day of October
2006 by Julio Arael, as City Manager, on behalf of the City of
Key West, Florida.

(SEAL)

[Signature]

Notary Public, State of Florida

Cheryl Smith

Printed/Typed/Stamped Name



Cheryl Smith
Commission # DD537351
Expires June 6, 2010
Bonded Troy Fan - Insurance, Inc. 800-385-7019

Commission Number: _____

Commission Expires: _____

EXHIBIT "A"

Beginning at a point on the center line of First Street, if extended in a Northwesterly direction and at its intersection with the outboard edge of the sea wall which forms the northwesterly boundary of the side walk on the northwesterly side of Roosevelt Boulevard; thence proceeding in an east, northeasterly direction at an approximate bearing of North 73° East along the outer edge of said sea wall, a distance of 1600 feet, more or less, to a point on the radius of and opposite the point of curvature of a curve to the left in said Roosevelt Boulevard whose deflection angle is 26° more or less, and thence proceeding around the edge of said sea wall and parallel to said curve for a distance of 265 feet, more or less, to a point on the sea wall on the radius of and opposite the Point of Tangency of said curve; thence proceeding a distance of 560 feet more or less in a northeasterly direction at a bearing of North 45° East more or less to a point where said seawall intersects the southerly boundary of the fill which formerly supported the tracks and formed the property of the F. B. C. Railroad; thence turning to the left approximately 135° and proceeding in a westerly direction along the South boundary of said property for a distance of 1550 feet, more or less, to a point opposite the east abutment of what formerly was a bridge over a gap in the fill at this point; thence continuing in a westerly direction across said gap for a distance of 80 feet, more or less, to a point opposite an abutment on the West side of said gap, the west abutment of a bridge over the gap; thence continuing in a westerly direction along the South boundary of said fill for a distance of 2400 feet, more or less, to a point at which the shore line turns to the left approximately 95° more or less, and thence proceeding in a southerly direction at a bearing of 5° West, more or less, along the high water mark of the shore line of Garrison Right, a distance of 725 feet, more or less, to a point where it intersects the center line of Palm Avenue, if extended in an easterly direction; thence proceeding in a south, southwesterly direction along the high water line a distance of 150 feet, more or less, to a point where it intersects the center line of Angela Street if extended in a northeasterly direction, at which point the shore line turns approximately 85° more or less to the left; thence proceeding 1150 feet more or less in a southwesterly direction along the high water mark and around several properties on what is known as North Beach which have developed or are developing their riparian rights to a point where the shore line intersects the north edge of the sea wall which forms the northwesterly boundary of the side walk on the northwesterly side of Roosevelt Boulevard; thence proceeding at approximately right angles to the left in a northeasterly direction and along the outboard edge of said sea wall a distance of 100 feet, more or less, at a bearing of North 51° 30' West, more or less, to a point opposite the P. C. of a curve to the right in the boulevard whose deflection angle is 21° more or less; thence proceeding along the outer edge of said sea wall and parallel to said curve for a distance of 310 feet, more or less, to a point opposite the P. T. of said curve; thence continue along the outer edge of said sea wall in an east, northeasterly direction, a distance of 965 feet, more or less, to the Point or Place of Beginning; lying and being in Section 33, Township 87 South, Range 25 East, Monroe County, State of Florida, and containing 91.3 acres, more or less.



Exhibit "B"
Page 7 of 7
Partial Modification of Deed Restriction and Reverter
Deed No. 19259-C



Department of Environmental Protection

Jeb Bush
Governor

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Colleen M. Castille
Secretary

Doc# 1612510
Bk# 2251 Pg# 1350

November 3, 2006

Mr. Bob Tischenkel, Esq.
Attorney for the City of Key West
Post Office Box 1409
Key West, Florida 33040

Dear Mr. Tischenkel:

Thank you for your assistance in having the attached Partial Modification of Deed Restriction and Reverter, Deed No. 19259-C executed on behalf of the City of Key West. It has now been executed by our Assistant Division Director and approved by our legal staff. Please have this original document recorded in the Monroe County records and return a copy to me at the letterhead address, mail station #130.

If I can of any further assistance, please call me at (850)245-2688.

Sincerely,

Victoria F. Thompson
Program Administrator
Bureau of Public Land Administration
Division of State Lands

Enclosure
/vt

MONROE COUNTY
OFFICIAL RECORDS